

By: Ellis

S.B. No. 1814

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Southampton Neighborhood Services District; providing authority to impose an assessment, impose a tax, and issue bonds or similar obligations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3839 to read as follows:

CHAPTER 3839. SOUTHAMPTON NEIGHBORHOOD SERVICES DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3839.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "District" means the Southampton Neighborhood Services District.

Sec. 3839.002. SOUTHAMPTON NEIGHBORHOOD SERVICES DISTRICT.

The Southampton Neighborhood Services District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3839.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the City of Houston, Harris County, and other political subdivisions to contract with the district, the legislature has established a

1 program to accomplish the public purposes set out in Section 52-a,
2 Article III, Texas Constitution.

3 (b) The creation of the district is necessary to provide
4 enhanced and supplemental services to maintain and improve the
5 common alleyways in the district and to promote and maintain the
6 Southampton Neighborhood of Houston as a safe, clean, aesthetically
7 pleasing, and deed-restricted residential neighborhood with
8 sustainable high property values.

9 (c) This chapter and the creation of the district may not be
10 interpreted to relieve Harris County or the City of Houston from
11 providing the level of services provided as of the effective date of
12 the Act enacting this chapter to the area in the district. The
13 district is created to supplement and not to supplant the county or
14 city services provided in the area in the district.

15 Sec. 3839.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

16 (a) The district is created to serve a public use and benefit.

17 (b) All land and other property included in the district
18 will benefit from the improvements and services to be provided by
19 the district under powers conferred by Sections 52 and 52-a,
20 Article III, and Section 59, Article XVI, Texas Constitution, and
21 other powers granted under this chapter.

22 (c) The district will:

23 (1) promote the health, safety, and general welfare of
24 district residents and of the public;

25 (2) provide enhanced and supplemental services to
26 preserve, maintain, and enhance the vitality of the district as a
27 deed-restricted residential neighborhood; and

1 (3) promote the health, safety, welfare, and enjoyment
2 of the public by maintaining and improving the common alleyways and
3 by landscaping and developing certain areas in the district, which
4 are necessary for the restoration, preservation, and enhancement of
5 scenic beauty.

6 (d) Pedestrian ways along or across a street or alley,
7 street or alley lighting, street landscaping, and pavement
8 associated with access ways connecting to, and drainage facilities
9 related to the common alleyways are parts of and necessary
10 components of a street or alley and are considered to be a street or
11 road improvement.

12 (e) The district will not act as the agent or
13 instrumentality of any private interest even though the district
14 will benefit many private interests as well as the public.

15 Sec. 3839.005. DISTRICT TERRITORY. (a) The district is
16 composed of the territory described by Section 3 of the Act enacting
17 this chapter, as that territory may have been modified under:

18 (1) Subchapter J, Chapter 49, Water Code; or

19 (2) other law.

20 (b) The boundaries and field notes of the district contained
21 in Section 3 of the Act enacting this chapter form a closure. A
22 mistake in the field notes or in copying the field notes in the
23 legislative process does not in any way affect the district's:

24 (1) organization, existence, or validity;

25 (2) right to issue any type of bond for a purpose for
26 which the district is created or to pay the principal of and
27 interest on the bond;

1 (3) right to impose or collect an assessment or tax; or

2 (4) legality or operation.

3 Sec. 3839.006. APPLICABILITY OF MUNICIPAL MANAGEMENT
4 DISTRICTS LAW. Except as otherwise provided by this chapter,
5 Chapter 375, Local Government Code, applies to the district.

6 Sec. 3839.007. LIBERAL CONSTRUCTION OF CHAPTER. This
7 chapter shall be liberally construed in conformity with the
8 findings and purposes stated in this chapter.

9 [Sections 3839.008-3839.050 reserved for expansion]

10 SUBCHAPTER B. BOARD OF DIRECTORS

11 Sec. 3839.051. BOARD OF DIRECTORS; TERMS. (a) The
12 district is governed by a board of 18 voting directors who serve
13 staggered terms of two years, with nine directors' terms expiring
14 December 31 of each year.

15 (b) The board by resolution may change the number of voting
16 directors on the board, but only if the board determines that the
17 change is in the best interest of the district. The board may not
18 consist of fewer than 11 or more than 21 directors.

19 Sec. 3839.052. APPOINTMENT OF DIRECTORS. (a) The mayor
20 and members of the governing body of the City of Houston shall
21 appoint directors. The city may consider persons recommended by
22 the board. A person is appointed if a majority of the members of the
23 governing body, including the mayor, vote to appoint that person.

24 (b) Not later than 30 days before nominating a director, the
25 board shall solicit from the real property owners in the district
26 the names of proposed directors in a manner of the board's choosing.
27 The board may nominate for appointment as directors persons from a

1 list of names solicited under this subsection.

2 Sec. 3839.053. NONVOTING DIRECTORS. (a) The following
3 persons serve as nonvoting directors:

4 (1) the directors of the following departments of the
5 City of Houston or a person designated by that director:

6 (A) parks and recreation;

7 (B) planning and development; and

8 (C) public works;

9 (2) the City of Houston's chief of police; and

10 (3) each City of Houston council member whose council
11 district is wholly or partly in the district.

12 (b) If a department described by Subsection (a) is
13 consolidated, renamed, or changed, the board may appoint a director
14 of the consolidated, renamed, or changed department as a nonvoting
15 director. If a department described by Subsection (a) is
16 abolished, the board may appoint a representative of another
17 department that performs duties comparable to those performed by
18 the abolished department.

19 Sec. 3839.054. QUORUM. For purposes of determining the
20 requirements for a quorum of the board, the following are not
21 counted:

22 (1) a board position vacant for any reason, including
23 death, resignation, or disqualification;

24 (2) a director who is abstaining from participation in
25 a vote because of a conflict of interest; or

26 (3) a nonvoting director.

27 Sec. 3839.055. INITIAL VOTING DIRECTORS. (a) The initial

1 board consists of the following voting directors:

	<u>Pos. No.</u>	<u>Name of Director</u>
3	<u>1</u>	<u>Anne Clutterbuck</u>
4	<u>2</u>	<u>Les Randall</u>
5	<u>3</u>	<u>Hugh Rice Kelly</u>
6	<u>4</u>	<u>Sarah Darneille</u>
7	<u>5</u>	<u>Larry Foust</u>
8	<u>6</u>	<u>Patrick Pacheco</u>
9	<u>7</u>	<u>Janet Peters</u>
10	<u>8</u>	<u>Ed Shoemake</u>
11	<u>9</u>	<u>Peggy Vineyard</u>
12	<u>10</u>	<u>Ed Kagi</u>
13	<u>11</u>	<u>Chip Gill</u>
14	<u>12</u>	<u>Licia Ellis</u>
15	<u>13</u>	<u>Amy Anton</u>
16	<u>14</u>	<u>Erik Eriksson</u>
17	<u>15</u>	<u>Karen Gonsoulin</u>
18	<u>16</u>	<u>Louisa Hernandez</u>
19	<u>17</u>	<u>Chris Knapp</u>
20	<u>18</u>	<u>Will Luedke</u>

21 (b) Of the initial voting directors, the terms of directors
22 appointed for positions 1 through 9 expire December 31, 2006, and
23 the terms of directors appointed for positions 10 through 18 expire
24 December 31, 2005.

25 (c) Section 3839.052 does not apply to this section.

26 (d) This section expires September 1, 2007.

27 [Sections 3839.056-3839.100 reserved for expansion]

1 SUBCHAPTER C. POWERS AND DUTIES

2 Sec. 3839.101. NONPROFIT CORPORATION. (a) The board by
3 resolution may authorize the creation of a nonprofit corporation to
4 assist and act for the district in implementing a project or
5 providing a service authorized by this chapter.

6 (b) The nonprofit corporation:

7 (1) has each power of and is considered for purposes of
8 this chapter to be a local government corporation created under
9 Chapter 431, Transportation Code; and

10 (2) may implement any project and provide any service
11 authorized by this chapter.

12 (c) The board shall appoint the board of directors of the
13 nonprofit corporation. The board of directors of the nonprofit
14 corporation shall serve in the same manner as the board of directors
15 of a local government corporation created under Chapter 431,
16 Transportation Code.

17 Sec. 3839.102. AGREEMENTS; GRANTS. (a) The district may
18 make an agreement with or accept a gift, grant, or loan from any
19 person.

20 (b) The implementation of a project is a governmental
21 function or service for the purposes of Chapter 791, Government
22 Code.

23 Sec. 3839.103. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.
24 To protect the public interest, the district may contract with a
25 qualified party, including Harris County, the City of Houston, or a
26 nonprofit corporation, to provide supplemental law enforcement
27 services in the district for a fee.

1 Sec. 3839.104. APPROVAL BY CITY OF HOUSTON. (a) Except as
2 provided by Subsection (b), the district must obtain the approval
3 of the City of Houston's governing body for:

4 (1) the issuance of a bond for each improvement
5 project;

6 (2) the plans and specifications of the improvement
7 project financed by the bond; and

8 (3) the plans and specifications of any district
9 improvement project related to the use of land owned by the City of
10 Houston, an easement granted by the City of Houston, or a
11 right-of-way of a street, road, or highway.

12 (b) The approval obtained for the issuance of bonds under
13 Subsection (a) must be a resolution by the City of Houston. The
14 approval obtained for plans and specifications must be a permit
15 issued by the City of Houston.

16 (c) If the district obtains the approval of the City of
17 Houston's governing body of a capital improvements budget for a
18 period not to exceed five years, the district may finance the
19 capital improvements and issue bonds specified in the budget
20 without further approval from the City of Houston.

21 Sec. 3839.105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
22 district may join and pay dues to an organization that:

23 (1) enjoys tax-exempt status under Section 501(c)(3),
24 (4), or (6), Internal Revenue Code of 1986; and

25 (2) performs a service or provides an activity
26 consistent with the furtherance of a district purpose.

27 Sec. 3839.106. NO EMINENT DOMAIN. The district may not

1 exercise the power of eminent domain.

2 Sec. 3839.107. NOTICE OF LAW ESTABLISHING DISTRICT.

3 (a) The district by mail shall provide notification of the
4 creation of the district to each person who owns real property in
5 the district, according to the most recent certified tax appraisal
6 roll for the county in which the real property is owned. The
7 notice, properly addressed with postage paid, must be deposited
8 with the United States Postal Service not later than the 90th day
9 after the effective date of the Act enacting this chapter.

10 (b) The notice is sufficient if it contains a statement of
11 the general purpose and substance of this chapter. Notice of the
12 particular form of this chapter or the terms used in this chapter is
13 not required.

14 (c) This section expires September 1, 2007.

15 [Sections 3839.108–3839.150 reserved for expansion]

16 SUBCHAPTER D. FINANCIAL PROVISIONS

17 Sec. 3839.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
18 board by resolution shall establish the number of directors'
19 signatures and the procedure required for a disbursement or
20 transfer of the district's money.

21 Sec. 3839.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.
22 The district may acquire, construct, finance, operate, or maintain
23 any improvement or service authorized under this chapter or Chapter
24 375, Local Government Code, using any money available to the
25 district.

26 Sec. 3839.153. INITIAL SERVICE AND ASSESSMENT PLAN.

27 (a) The district's initial service and assessment plan must

1 provide that:

2 (1) any assessment imposed must be paid in five years
3 or less;

4 (2) the rate of assessment for the first year of the
5 plan may not exceed \$510 per residential household per year;

6 (3) the rate of assessment may only be increased in a
7 later year of the plan:

8 (A) to account for increased costs of services;
9 and

10 (B) by a rate that does not exceed 10 percent of
11 the previous year's assessment; and

12 (4) assessment revenue may only be used to pay for:

13 (A) garbage collection;

14 (B) supplemental security and public safety;

15 (C) landscaping and beautification projects as
16 funds permit;

17 (D) studying reconstruction of alleyways and
18 making minor alleyway repairs;

19 (E) formulation and adoption of neighborhood
20 deed restrictions; and

21 (F) other operation and administration costs of
22 the district.

23 (b) This section does not apply to a district service and
24 assessment plan developed after the initial service and assessment
25 plan.

26 (c) This section expires September 1, 2012.

27 Sec. 3839.154. PETITION REQUIRED FOR FINANCING SERVICES AND

1 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
2 service or improvement project with assessments under this chapter
3 unless a written petition requesting that service or improvement
4 has been filed with the board.

5 (b) The petition must be signed by the owners of two-thirds
6 of the residences in the district subject to assessment according
7 to the most recent certified tax appraisal roll for Harris County.

8 Sec. 3839.155. METHOD OF NOTICE FOR HEARING. The district
9 may give the notice required by Section 375.115(c), Local
10 Government Code, by personal delivery or certified United States
11 mail or an equivalent service that can provide a record of mailing
12 or delivery.

13 Sec. 3839.156. ASSESSMENTS; LIENS FOR ASSESSMENTS.

14 (a) The board by resolution may impose and collect an assessment
15 in all or part of the district for any purpose authorized by this
16 chapter.

17 (b) An assessment, a reassessment, or an assessment
18 resulting from an addition to or correction of the assessment roll
19 by the district, penalties and interest on an assessment or
20 reassessment, an expense of collection, and reasonable attorney's
21 fees incurred by the district:

22 (1) are a first and prior lien against the property
23 assessed;

24 (2) are superior to any other lien or claim other than
25 a lien or claim for county, school district, or municipal ad valorem
26 taxes; and

27 (3) are the personal liability of and a charge against

1 the owners of the property even if the owners are not named in the
2 assessment proceedings.

3 (c) The lien is effective from the date of the board's
4 resolution imposing the assessment until the date the assessment is
5 paid. The board may enforce the lien in the same manner that the
6 board may enforce an ad valorem tax lien against real property,
7 except that the board may not foreclose on a residential homestead.

8 (d) The board may make a correction to or deletion from the
9 assessment roll that does not increase the amount of assessment of
10 any parcel of land without providing notice and holding a hearing in
11 the manner required for additional assessments.

12 (e) Section 375.161, Local Government Code, does not apply
13 to the district.

14 Sec. 3839.157. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
15 ASSESSMENTS. The district may not impose an impact fee or
16 assessment on the property, including the equipment,
17 rights-of-way, facilities, or improvements, of:

18 (1) an electric utility or a power generation company
19 as defined by Section 31.002, Utilities Code;

20 (2) a gas utility as defined by Section 101.003 or
21 121.001, Utilities Code;

22 (3) a telecommunications provider as defined by
23 Section 51.002, Utilities Code; or

24 (4) a person who provides to the public cable
25 television or advanced telecommunications services.

26 Sec. 3839.158. CERTAIN RESIDENTIAL PROPERTY EXEMPT FROM
27 IMPACT FEES AND ASSESSMENTS. (a) An individual is entitled to an

1 exemption from an impact fee or assessment if:

2 (1) the individual is 65 years of age or older or is
3 disabled as defined by Section 11.13(m), Tax Code; and

4 (2) the assessment will be imposed against property
5 that the individual owns and occupies as a residence homestead.

6 (b) To obtain the exemption, the individual must file with
7 the board an affidavit stating the facts required by Subsection
8 (a).

9 Sec. 3839.159. BONDS AND OTHER OBLIGATIONS. (a) The
10 district may issue bonds or other obligations, by competitive bid
11 or negotiated sale, payable wholly or partly from ad valorem taxes,
12 assessments, impact fees, revenue, grants, or other money of the
13 district, or any combination of those sources of money, to pay for
14 any authorized purpose of the district, except as provided by
15 Subsection (b).

16 (b) If the bonds are payable from ad valorem taxes, the
17 bonds may only be used to pay for the design, construction,
18 acquisition, improvement, maintenance, repair, reconstruction, and
19 operation of streets, roads, and alleys, or improvements in and of
20 those streets, roads, and alleys.

21 (c) The district may issue a bond or other obligation in the
22 form of a bond, note, certificate of participation or other
23 instrument evidencing a proportionate interest in payments to be
24 made by the district, or other type of obligation.

25 Sec. 3839.160. TAXES FOR BONDS AND OTHER OBLIGATIONS. At
26 the time bonds or other obligations payable wholly or partly from ad
27 valorem taxes are issued:

1 (1) the board shall impose a continuing direct annual
2 ad valorem tax, without limit as to rate or amount, for each year
3 that all or part of the bonds are outstanding; and

4 (2) the district annually shall impose the continuing
5 direct ad valorem tax on all taxable property in the district in an
6 amount sufficient to:

7 (A) pay the interest on the bonds or other
8 obligations as the interest becomes due;

9 (B) create a sinking fund for the payment of the
10 principal of the bonds or other obligations when due or the
11 redemption price at any earlier required redemption date; and

12 (C) pay the expenses of imposing the taxes.

13 Sec. 3839.161. BOND ELECTIONS. (a) The district shall
14 hold an election in the manner provided by Subchapter L, Chapter
15 375, Local Government Code, to obtain voter approval before the
16 district issues bonds.

17 (b) The district may only issue bonds or other obligations
18 under Section 52(b)(3), Article III, Texas Constitution, if the
19 issuance is approved by a two-thirds majority of the voters in the
20 district voting at an election held for that purpose.

21 (c) Section 375.243, Local Government Code, does not apply
22 to the district.

23 Sec. 3839.162. CITY NOT REQUIRED TO PAY DISTRICT
24 OBLIGATIONS. Except as provided by Section 375.263, Local
25 Government Code, the City of Houston is not required to pay a bond,
26 note, or other obligation of the district.

27 Sec. 3839.163. COMPETITIVE BIDDING. Section 375.221, Local

1 Government Code, applies to the district only for a contract that
2 has a value greater than \$25,000.

3 [Sections 3839.164-3839.200 reserved for expansion]

4 SUBCHAPTER E. DISSOLUTION

5 Sec. 3839.201. DISSOLUTION BY PETITION BY OWNERS. The
6 board shall dissolve the district on written petition filed with
7 the board by the owners of two-thirds or more of the residential
8 households in the district according to the most recent certified
9 tax appraisal roll for Harris County.

10 Sec. 3839.202. DISSOLUTION OF DISTRICT WITH OUTSTANDING
11 DEBT BY BOARD. The board may dissolve the district regardless of
12 whether the district has debt. Section 375.264, Local Government
13 Code, does not apply to the district.

14 Sec. 3839.203. DEBTS. If the district has debt when it is
15 dissolved under this subchapter, the district shall remain in
16 existence solely for the purpose of discharging its debts. The
17 dissolution is effective when all debts have been discharged.

18 Sec. 3839.204. DISSOLUTION; CONTINUATION BY RESOLUTION.
19 (a) Unless continued in existence by the adoption of a resolution
20 by the governing body of the City of Houston, the district is
21 dissolved September 1, 2011.

22 (b) If the district is dissolved under this section, the
23 district shall remain in existence until all debts are paid and the
24 remaining assets are transferred to the City of Houston. The
25 dissolution is effective when all assets have been transferred and
26 all debts have been discharged.

27 (c) The governing body of the City of Houston may adopt a

1 resolution continuing the district only if the governing body finds
2 that:

3 (1) the district continues to serve a public use and
4 benefit; and

5 (2) land and other property included in the district
6 will continue to benefit from the improvements and services
7 provided by the district.

8 (d) The governing body of the City of Houston shall specify
9 in the resolution continuing the district a date on which the
10 district will be dissolved. The governing body may not specify a
11 date that occurs later than the sixth anniversary of the date of the
12 resolution. The district is dissolved on the date specified in the
13 resolution unless the governing body adopts a subsequent resolution
14 extending the existence of the district under the procedures
15 described by this section.

16 (e) Not later than the 30th day after the date a resolution
17 is adopted under this section, the governing body of the City of
18 Houston shall file a copy of the resolution continuing the district
19 with the Texas Commission on Environmental Quality.

20 SECTION 2. The Southhampton Neighborhood Services District
21 may reimburse the cost of creating the district from district
22 assessments collected under Section 3839.153, Special District
23 Local Laws Code, as added by this Act.

24 SECTION 3. As of the effective date of this Act, the
25 Southhampton Neighborhood Services District includes all territory
26 contained in the following described area: from the intersection
27 of the centerline of the right of way of Bissonnet Street and the

1 centerline of the right of way of Greenbriar Drive, south to the
2 intersection of the centerline of the right of way of Greenbriar
3 Drive and the centerline of the right of way of Rice Boulevard, east
4 to the intersection of the centerline of the right of way of Rice
5 Boulevard and the centerline of the right of way of Ashby Street,
6 north to the intersection of the centerline of the right of way of
7 Ashby Street and the centerline of the right of way of Bissonnet
8 Street, west to the intersection of the centerline of the right of
9 way of Bissonnet Street and the centerline of the right of way of
10 Greenbriar Drive, the point or place of beginning.

11 SECTION 4. The legislature finds that:

12 (1) proper and legal notice of the intention to
13 introduce this Act, setting forth the general substance of this
14 Act, has been published as provided by law, and the notice and a
15 copy of this Act have been furnished to all persons, agencies,
16 officials, or entities to which they are required to be furnished by
17 the constitution and laws of this state, including the governor,
18 who has submitted the notice and Act to the Texas Commission on
19 Environmental Quality;

20 (2) the Texas Commission on Environmental Quality has
21 filed its recommendations relating to this Act with the governor,
22 lieutenant governor, and speaker of the house of representatives
23 within the required time;

24 (3) the general law relating to consent by political
25 subdivisions to the creation of districts with conservation,
26 reclamation, and road powers and the inclusion of land in those
27 districts has been complied with; and

1 (4) all requirements of the constitution and laws of
2 this state and the rules and procedures of the legislature with
3 respect to the notice, introduction, and passage of this Act have
4 been fulfilled and accomplished.

5 SECTION 5. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2005.